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17 Attorneys to Defendant: JEB PROPERTIES, INC.

18 UNITED STATES DISTRICT COURT
19 CENTRAL DISTRICT OF CALIFORNIA

20 RUSSELL ASHBY, an individual) CASE NO: 2:18-cv-07883- PSG-JC

21)

22) [Discovery Document: Referred to

23) **Magistrate Jacqueline Chooljian]**

24)

25 PLAINTIFFS,) ~~[Proposed]~~ **STIPULATED**

26 vs) **PROTECTIVE ORDER**

27)

28 JEB PROPERTIES, INC., a)
29 California Corporation, and others)
30 to be joined under Rules 19 of the)
31 Federal Rules of Civil Procedure,)

32)

33 DEFENDANTS.)

34)
35 _____)

1
2 1. A. PURPOSES AND LIMITATIONS

3 As the parties have represented that discovery in this action is likely to
4 involve production of confidential, proprietary, or private information for which
5 special protection from public disclosure and from use for any purpose other than
6 prosecuting this litigation may be warranted, this Court enters the following
7 Protective Order. This Order does not confer blanket protections on all disclosures
8 or responses to discovery. The protection it affords from public disclosure and use
9 extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. Further, as set forth in Section 12.3,
11 below, this Protective Order does not entitle the parties to file confidential
12 information under seal. Rather, when the parties seek permission from the court to
13 file material under seal, the parties must comply with Civil Local Rule 79-5 and
14 with any pertinent orders of the assigned District Judge and Magistrate Judge.

15 B. GOOD CAUSE STATEMENT

16 In light of the nature of the claims and allegations in this case and the parties'
17 representations that discovery in this case will involve the production of confidential
18 records, and in order to expedite the flow of information, to facilitate the prompt
19 resolution of disputes over confidentiality of discovery materials, to adequately
20 protect information the parties are entitled to keep confidential, to ensure that the
21 parties are permitted reasonable necessary uses of such material in connection with
22 this action, to address their handling of such material at the end of the litigation, and
23 to serve the ends of justice, a protective order for such information is justified in this
24 matter. The parties shall not designate any information/documents as confidential
25 without a good faith belief that such information/documents have been maintained
26 in a confidential, non-public manner, and that there is good cause or a compelling
27 reason why it should not be part of the public record of this case.
28

1 2. DEFINITIONS

2 2.1 Action: The instant action: Russell Ashby v. JEB Properties, Inc, et
3 al., 2:18-cv-07883-PSG-JC, United States District Court for the Central District of
4 California.

5 2.2 Challenging Party: a Party or Non-Party that challenges the
6 designation of information or items under this Order.

7 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
8 how it is generated, stored or maintained) or tangible things that qualify for
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
10 the Good Cause Statement.

11 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
12 their support staff).

13 2.5 Designating Party: a Party or Non-Party that designates information or
14 items that it produces in disclosures or in responses to discovery as
15 “CONFIDENTIAL.”

16 2.6 Disclosure or Discovery Material: all items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced or
19 generated in disclosures or responses to discovery in this matter.

20 2.7 Expert: a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as
22 an expert witness or as a consultant in this Action.

23 2.8 House Counsel: attorneys who are employees of a party to this Action.
24 House Counsel does not include Outside Counsel of Record or any other outside
25 counsel.

26 2.9 Non-Party: any natural person, partnership, corporation, association, or
27 other legal entity not named as a Party to this action.

28 2.10 Outside Counsel of Record: attorneys who are not employees of a

1 party to this Action but are retained to represent or advise a party to this Action and
2 have appeared in this Action on behalf of that party or are affiliated with a law firm
3 which has appeared on behalf of that party, and includes support staff.

4 2.11 Party: any party to this Action, including all of its officers, directors,
5 employees, consultants, retained experts, and Outside Counsel of Record (and their
6 support staffs).

7 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
8 Discovery Material in this Action.

9 2.13 Professional Vendors: persons or entities that provide litigation
10 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
11 demonstrations, and organizing, storing, or retrieving data in any form or medium)
12 and their employees and subcontractors.

13 2.14 Protected Material: any Disclosure or Discovery Material that is
14 designated as “CONFIDENTIAL.”

15 2.15 Receiving Party: a Party that receives Disclosure or Discovery
16 Material from a Producing Party.

17 3. SCOPE

18 The protections conferred by this Order cover not only Protected Material (as
19 defined above), but also (1) any information copied or extracted from Protected
20 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
21 and (3) any deposition testimony, conversations, or presentations by Parties or their
22 Counsel that might reveal Protected Material, other than during a court hearing or at
23 trial.

24 Any use of Protected Material during a court hearing or at trial shall be
25 governed by the orders of the presiding judge. This Order does not govern the use
26 of Protected Material during a court hearing or at trial.

1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees
4 otherwise in writing or a court order otherwise directs. Final disposition shall be
5 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
6 or without prejudice; and (2) final judgment herein after the completion and
7 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
8 including the time limits for filing any motions or applications for extension of time
9 pursuant to applicable law.

10 5. DESIGNATING PROTECTED MATERIAL

11 5.1 Exercise of Restraint and Care in Designating Material for Protection.

12 Each Party or Non-Party that designates information or items for protection under
13 this Order must take care to limit any such designation to specific material that
14 qualifies under the appropriate standards. The Designating Party must designate for
15 protection only those parts of material, documents, items, or oral or written
16 communications that qualify so that other portions of the material, documents,
17 items, or communications for which protection is not warranted are not swept
18 unjustifiably within the ambit of this Order.

19 Mass, indiscriminate, or routinized designations are prohibited. Designations
20 that are shown to be clearly unjustified or that have been made for an improper
21 purpose (e.g., to unnecessarily encumber the case development process or to impose
22 unnecessary expenses and burdens on other parties) may expose the Designating
23 Party to sanctions.

24 If it comes to a Designating Party's attention that information or items that it
25 designated for protection do not qualify for protection, that Designating Party must
26 promptly notify all other Parties that it is withdrawing the inapplicable designation.

27 5.2 Manner and Timing of Designations. Except as otherwise provided in
28 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise

1 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
2 under this Order must be clearly so designated before the material is disclosed or
3 produced.

4 Designation in conformity with this Order requires:

5 (a) for information in documentary form (e.g., paper or electronic documents,
6 but excluding transcripts of depositions), that the Producing Party affix at a
7 minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”),
8 to each page that contains protected material. If only a portion or portions of the
9 material on a page qualifies for protection, the Producing Party also must clearly
10 identify the protected portion(s) (e.g., by making appropriate markings in the
11 margins).

12 A Party or Non-Party that makes original documents available for inspection
13 need not designate them for protection until after the inspecting Party has indicated
14 which documents it would like copied and produced. During the inspection and
15 before the designation, all of the material made available for inspection shall be
16 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
17 documents it wants copied and produced, the Producing Party must determine which
18 documents, or portions thereof, qualify for protection under this Order. Then, before
19 producing the specified documents, the Producing Party must affix the
20 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
21 portion or portions of the material on a page qualifies for protection, the Producing
22 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
23 markings in the margins).

24 (b) for testimony given in depositions that the Designating Party identifies on
25 the record, before the close of the deposition as protected testimony.

26 (c) for information produced in some form other than documentary and for
27 any other tangible items, that the Producing Party affix in a prominent place on the
28 exterior of the container or containers in which the information is stored the legend

1 “CONFIDENTIAL.” If only a portion or portions of the information warrants
2 protection, the Producing Party, to the extent practicable, shall identify the protected
3 portion(s).

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
5 failure to designate qualified information or items does not, standing alone, waive
6 the Designating Party’s right to secure protection under this Order for such material.
7 Upon timely correction of a designation, the Receiving Party must make reasonable
8 efforts to assure that the material is treated in accordance with the provisions of this
9 Order.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
12 designation of confidentiality at any time that is consistent with the Court’s
13 Scheduling Order.

14 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
15 resolution process under Local Rule 37-1 et seq.

16 6.3 The burden of persuasion in any such challenge proceeding shall be on
17 the Designating Party. Frivolous challenges, and those made for an improper
18 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
19 parties) may expose the Challenging Party to sanctions. Unless the Designating
20 Party has waived or withdrawn the confidentiality designation, all parties shall
21 continue to afford the material in question the level of protection to which it is
22 entitled under the Producing Party’s designation until the Court rules on the
23 challenge.

24 7. ACCESS TO AND USE OF PROTECTED MATERIAL

25 7.1 Basic Principles. A Receiving Party may use Protected Material that is
26 disclosed or produced by another Party or by a Non-Party in connection with this
27 Action only for prosecuting, defending, or attempting to settle this Action. Such
28 Protected Material may be disclosed only to the categories of persons and under the

conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of Section 13 below.

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” form attached as Exhibit A hereto; and (2) they will not be permitted to keep any

1 confidential information unless they sign the “Acknowledgment and Agreement to
2 Be Bound” attached as Exhibit A, unless otherwise agreed by the Designating Party
3 or ordered by the court. Pages of transcribed deposition testimony or exhibits to
4 depositions that reveal Protected Material may be separately bound by the court
5 reporter and may not be disclosed to anyone except as permitted under this
6 Protective Order; and

7 (i) any mediator or settlement officer, and their supporting personnel,
8 mutually agreed upon by any of the parties engaged in settlement discussions.

9 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
10 IN OTHER LITIGATION

11 If a Party is served with a subpoena or a court order issued in other litigation
12 that compels disclosure of any information or items designated in this Action as
13 “CONFIDENTIAL,” that Party must:

14 (a) promptly notify in writing the Designating Party. Such notification shall
15 include a copy of the subpoena or court order unless prohibited by law;

16 (b) promptly notify in writing the party who caused the subpoena or order to
17 issue in the other litigation that some or all of the material covered by the subpoena
18 or order is subject to this Protective Order. Such notification shall include a copy of
19 this Protective Order; and

20 (c) cooperate with respect to all reasonable procedures sought to be pursued
21 by the Designating Party whose Protected Material may be affected.

22 If the Designating Party timely seeks a protective order, the Party served with
23 the subpoena or court order shall not produce any information designated in this
24 action as “CONFIDENTIAL” before a determination by the court from which the
25 subpoena or order issued, unless the Party has obtained the Designating Party’s
26 permission, or unless otherwise required by the law or court order. The Designating
27 Party shall bear the burden and expense of seeking protection in that court of its
28 confidential material and nothing in these provisions should be construed as

1 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
2 directive from another court.

3 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
4 PRODUCED IN THIS LITIGATION

5 (a) The terms of this Order are applicable to information produced by a Non-
6 Party in this Action and designated as "CONFIDENTIAL." Such information
7 produced by Non-Parties in connection with this litigation is protected by the
8 remedies and relief provided by this Order. Nothing in these provisions should be
9 construed as prohibiting a Non-Party from seeking additional protections.

10 (b) In the event that a Party is required, by a valid discovery request, to
11 produce a Non-Party's confidential information in its possession, and the Party is
12 subject to an agreement with the Non-Party not to produce the Non-Party's
13 confidential information, then the Party shall:

14 (1) promptly notify in writing the Requesting Party and the Non-
15 Party that some or all of the information requested is subject to a
16 confidentiality agreement with a Non-Party;

17 (2) promptly provide the Non-Party with a copy of the
18 Protective Order in this Action, the relevant discovery request(s),
19 and a reasonably specific description of the information
20 requested; and

21 (3) make the information requested available for inspection by
22 the Non-Party, if requested.

23 (c) If a Non-Party represented by counsel fails to commence the process
24 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the
25 notice and accompanying information or fails contemporaneously to notify the
26 Receiving Party that it has done so, the Receiving Party may produce the Non-
27 Party's confidential information responsive to the discovery request. If an
28 unrepresented Non-Party fails to seek a protective order from this court within 14

1 days of receiving the notice and accompanying information, the Receiving Party
2 may produce the Non-Party's confidential information responsive to the discovery
3 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
4 not produce any information in its possession or control that is subject to the
5 confidentiality agreement with the Non-Party before a determination by the court
6 unless otherwise required by the law or court order. Absent a court order to the
7 contrary, the Non-Party shall bear the burden and expense of seeking protection in
8 this court of its Protected Material.

9 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

10 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
11 Protected Material to any person or in any circumstance not authorized under this
12 Protective Order, the Receiving Party must immediately (a) notify in writing the
13 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
14 all unauthorized copies of the Protected Material, (c) inform the person or persons to
15 whom unauthorized disclosures were made of all the terms of this Order, and (d)
16 request such person or persons to execute the "Acknowledgment and Agreement to
17 Be Bound" that is attached hereto as Exhibit A.

18 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
19 **PROTECTED MATERIAL**

20 When a Producing Party gives notice to Receiving Parties that certain
21 inadvertently produced material is subject to a claim of privilege or other protection,
22 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
23 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
24 may be established in an e-discovery order that provides for production without
25 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
26 as the parties reach an agreement on the effect of disclosure of a communication or
27 information covered by the attorney-client privilege or work product protection, the
28 parties may incorporate their agreement into this Protective Order.

1 12. MISCELLANEOUS

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
3 person to seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. No Party waives any right it
5 otherwise would have to object to disclosing or producing any information or item
6 on any ground not addressed in this Protective Order. Similarly, no Party waives
7 any right to object on any ground to use in evidence of any of the material covered
8 by this Protective Order.

9 12.3 Filing Protected Material. A Party that seeks to file under seal any
10 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
11 orders of the assigned District Judge and Magistrate Judge. If a Party's request to
12 file Protected Material under seal is denied by the court, then the Receiving Party
13 may file the information in the public record unless otherwise instructed by the
14 court.

15 13. FINAL DISPOSITION

16 After the final disposition of this Action, as defined in Section 4, within 60
17 days of a written request by the Designating Party, each Receiving Party must return
18 all Protected Material to the Producing Party or destroy such material. As used in
19 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
20 summaries, and any other format reproducing or capturing any of the Protected
21 Material. Whether the Protected Material is returned or destroyed, the Receiving
22 Party must submit a written certification to the Producing Party (and, if not the same
23 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
24 (by category, where appropriate) all the Protected Material that was returned or
25 destroyed and (2) affirms that the Receiving Party has not retained any copies,
26 abstracts, compilations, summaries or any other format reproducing or capturing any
27 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
28 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing

1 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
2 reports, attorney work product, and consultant and expert work product, even if such
3 materials contain Protected Material. Any such archival copies that contain or
4 constitute Protected Material remain subject to this Protective Order as set forth in
5 Section 4.

6 14. Any violation of this Order may be punished by any and all appropriate
7 measures including, without limitation, contempt proceedings and/or monetary
8 sanctions.

9
10 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

11
12 DATED: May 16, 2019

LAW OFFICES OF ODION OKOJIE

13
14 By: _____/ss/
15 Odion L. Okojie, Attorneys of Plaintiffs
16 Pamela Brooks, et al.

17 DATED: May 16, 2019

DAVID IYALOMHE & ASSOCIATES

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19
20 By: _____//ss//
21 David Iyalomhe, Attorneys of Plaintiffs
22 Pamela Brooks, et al.

23 DATED: May 16, 2019

FERNALD LAW GROUP APC

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25
26 By: _____/ss/
27 Brandon Fernald, Attorneys of
28 Defendants JEB Properties, INC, et al.

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FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: _____ May 17, 2019

/s/
HON. JACQUELINE CHOOLJIAN
United States Magistrate Judge

EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on May 17, 2019 _____ in the case of Russell Ashby v. JEB Properties, Inc., et al., 2:18-cv-07883-PSG-JC. I agree to comply with and to be bound by all the terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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SIGNATURE CERTIFICATION

I am the ECF user whose identification and password are being used to file the foregoing [Proposed] **STIPULATED PROTECTIVE ORDER**. I certify that all signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized this filing, pursuant to Central District Local Rules 5-4.3.4.

DATED: May 16, 2019 **DAVID IYALOMHE & ASSOCIATES**

By: //ss//
David Iyalomhe, Attorneys of Plaintiff
Russell Ashby